

HOUSE BILL No. 2460

By Committee on Energy and Environment

1-17

1 AN ACT concerning electricity; sale of renewable energy; public utility,
2 definitions, exceptions; amending K.S.A. 66-1,170 and K.S.A. 2013
3 Supp. 66-104 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) As used in this section:

7 (1) "Ancillary services" means those services necessary to support the
8 transmission of electric power from the renewable energy supplier to the
9 renewable energy customer given the obligations of utilities in impacted
10 certified territories to maintain reliable operations of the interconnected
11 transmission system.

12 (2) "Renewable energy customer" means any person who: (A) Elects
13 to purchase electricity from a renewable energy supplier;

14 (B) purchases at least one megawatt-hour of electricity per month,
15 including aggregation of multiple, separately metered delivery locations
16 billed to the customer, from a renewable energy supplier; and

17 (C) either has an ownership interest in the renewable energy supplier
18 or has part of the integrated generating, storage or controls package of the
19 renewable energy supplier physically located on their premises.

20 (3) "Renewable energy supplier" means any corporation, company,
21 individual, association of persons, their trustees, lessees or receivers that
22 uses a renewable energy resource, as defined in K.S.A. 66-1257, and
23 amendments thereto, to generate or store electricity at a facility and is a
24 qualifying small power production facility pursuant to 16 U.S.C. § 796 as
25 in effect on the effective date of this act, but does not include an electric
26 generating facility whose costs have been included in a utility's rates as a
27 facility providing electric service to the utility's system.

28 (4) "Utility" means an electric public utility as defined in K.S.A.
29 66-101a, and amendments thereto.

30 (b) (1) Any electric customer shall have the option to purchase
31 electricity directly from a renewable energy supplier after providing 180
32 days' notice to the local certificated utility serving the customer. The state
33 corporation commission shall approve appropriate tariffs for the delivery
34 of electricity by a utility from a renewable energy supplier to a renewable
35 energy customer. Such tariffs shall include appropriate retail transmission
36 and distribution charges, any customer charges, standby rates and any

1 ancillary services requested by a customer.

2 (2) Any renewable energy credits created as a result of a renewable
3 energy supplier providing electricity over a certified utility's electric lines
4 to a renewable energy customer pursuant to this section shall be
5 transferred and assigned to the utility.

6 (c) In exercising the purchase option in subsection (b), the renewable
7 energy customer shall enter into a contract with the local certificated utility
8 that includes the following terms and conditions:

9 (1) The renewable energy customer shall furnish, install, operate and
10 maintain in good order and repair and without cost to the utility, such
11 relays, locks and seals, breakers, automatic synchronizer and other control
12 and protective apparatus as shall be designated by the utility as being
13 required as suitable for the transmission and distribution of electricity on
14 the utility's system. In addition, the utility may install, own and maintain a
15 disconnecting device located near the electric meter or meters.
16 Interconnection facilities between the customer's and the utility's
17 equipment shall be accessible at all reasonable times to utility personnel;

18 (2) the renewable energy customer shall meet all applicable safety,
19 performance, interconnection and reliability standards established by the
20 national electrical code, the national electrical safety code, the institute of
21 electrical and electronics engineers, underwriters laboratories, the federal
22 energy regulatory commission and any local governing authorities. A
23 utility may require that a customer's system contain a switch, circuit
24 breaker, fuse or other easily accessible device or feature located in
25 immediate proximity to the customer's metering equipment that would
26 allow a utility worker the ability to manually and instantly disconnect the
27 unit from the utility's electric distribution system;

28 (3) the utility may not require a renewable energy supplier or
29 renewable energy customer whose facilities meets the standards in this
30 section to comply with additional safety or performance standards or
31 perform or pay for additional tests or purchase additional liability
32 insurance. A utility shall not be liable directly or indirectly for permitting
33 or continuing to allow an attachment of a renewable energy supplier or for
34 the acts or omissions of the renewable energy customer that cause loss or
35 injury, including death, to any third party;

36 (4) service provided by a utility to a renewable energy customer
37 pursuant to this section shall be subject to either the utility's rules and
38 regulations on file with the state corporation commission, which shall
39 include a standard interconnection process and requirements for such
40 utility's system, or the current federal energy regulatory commission
41 interconnection procedures and regulations; and

42 (5) in any case where the renewable energy customer and the utility
43 cannot agree to terms and conditions of any contract provided for by this

1 section, the state corporation commission shall establish the terms and
2 conditions for such contract.

3 (d) Notwithstanding any other provision of law, a utility may file a
4 schedule or establish or enter into any reasonable arrangement with
5 another public utility or with one or more of its customers, consumers, or
6 employees providing for any other financial device that may be practicable
7 or advantageous to the parties interested. In the case of a schedule or
8 arrangement concerning a utility, such other financial device may include a
9 device to recover costs incurred in conjunction with any economic
10 development and job retention program of the utility within its certified
11 territory, including recovery of revenue foregone as a result of any such
12 program, any acquisition and deployment of advanced metering, including
13 the costs of any meters prematurely retired as a result of the advanced
14 metering implementation and compliance with any government mandate.
15 No such schedule or arrangement is lawful unless it is filed with and
16 approved by the state corporation commission. Every such utility is
17 required to conform its schedules of rates, tolls and charges to such
18 arrangement, sliding scale, classification or other device. Every such
19 schedule or reasonable arrangement shall be under the supervision and
20 regulation of the commission and is subject to change, alteration or
21 modification by the commission.

22 Sec. 2. K.S.A. 2013 Supp. 66-104 is hereby amended to read as
23 follows: 66-104. (a) The term "public utility," as used in this act, shall be
24 construed to mean every corporation, company, individual, association of
25 persons, their trustees, lessees or receivers, that now or hereafter may own,
26 control, operate or manage, except for private use, any equipment, plant or
27 generating machinery, or any part thereof, for the transmission of
28 telephone messages or for the transmission of telegraph messages in or
29 through any part of the state, or the conveyance of oil and gas through
30 pipelines in or through any part of the state, except pipelines less than 15
31 miles in length and not operated in connection with or for the general
32 commercial supply of gas or oil, and all companies for the production,
33 transmission, delivery or furnishing of heat, light, water or power. No
34 cooperative, cooperative society, nonprofit or mutual corporation or
35 association which is engaged solely in furnishing telephone service to
36 subscribers from one telephone line without owning or operating its own
37 separate central office facilities, shall be subject to the jurisdiction and
38 control of the commission as provided herein, except that it shall not
39 construct or extend its facilities across or beyond the territorial boundaries
40 of any telephone company or cooperative without first obtaining approval
41 of the commission. As used herein, the term "transmission of telephone
42 messages" shall include the transmission by wire or other means of any
43 voice, data, signals or facsimile communications, including all such

1 communications now in existence or as may be developed in the future.

2 (b) The term "public utility" shall also include that portion of every
3 municipally owned or operated electric or gas utility located in an area
4 outside of and more than three miles from the corporate limits of such
5 municipality, but regulation of the rates, charges and terms and conditions
6 of service of such utility within such area shall be subject to commission
7 regulation only as provided in K.S.A. 2013 Supp. 66-104f, and
8 amendments thereto. Nothing in this act shall apply to a municipally
9 owned or operated utility, or portion thereof, located within the corporate
10 limits of such municipality or located outside of such corporate limits but
11 within three miles thereof except as provided in K.S.A. 66-131a, and
12 amendments thereto.

13 (c) Except as herein provided, the power and authority to control and
14 regulate all public utilities and common carriers situated and operated
15 wholly or principally within any city or principally operated for the benefit
16 of such city or its people, shall be vested exclusively in such city, subject
17 only to the right to apply for relief to the corporation commission as
18 provided in K.S.A. 66-133, and amendments thereto, and to the provisions
19 of K.S.A. 66-104e, and amendments thereto. A transit system principally
20 engaged in rendering local transportation service in and between
21 contiguous cities in this and another state by means of street railway,
22 trolley bus and motor bus lines, or any combination thereof, shall be
23 deemed to be a public utility as that term is used in this act and, as such,
24 shall be subject to the jurisdiction of the commission.

25 (d) The term "public utility" shall not include any activity of an
26 otherwise jurisdictional corporation, company, individual, association of
27 persons, their trustees, lessees or receivers as to the marketing or sale of
28 compressed natural gas for end use as motor vehicle fuel.

29 (e) At the option of an otherwise jurisdictional entity, the term "public
30 utility" shall not include any activity or facility of such entity as to the
31 generation, marketing and sale of electricity generated by an electric
32 generation facility or addition to an electric generation facility which:

33 (1) Is newly constructed and placed in service on or after January 1,
34 2001; and

35 (2) is not in the rate base of: (A) An electric public utility that is
36 subject to rate regulation by the state corporation commission; (B) any
37 cooperative, as defined by K.S.A. 17-4603, and amendments thereto, or
38 any nonstock member-owned cooperative corporation incorporated in this
39 state; or (C) a municipally owned or operated electric utility.

40 (f) Additional generating capacity achieved through efficiency gains
41 by refurbishing or replacing existing equipment at generating facilities
42 placed in service before January 1, 2001, shall not qualify under
43 subsection (e).

1 (g) For purposes of the authority to appropriate property through
2 eminent domain, the term "public utility" shall not include any activity for
3 the siting or placement of wind powered electrical generators or turbines,
4 including the towers.

5 (h) *The term "public utility" shall not include any renewable energy*
6 *supplier, as defined in section 1, and amendments thereto, for the*
7 *supplier's sale of electricity to a renewable energy purchaser, as defined in*
8 *section 1, and amendments thereto.*

9 Sec. 3. K.S.A. 66-1,170 is hereby amended to read as follows: 66-
10 1,170. As used in this act:

11 (a) "Distribution line" means an electric line used to furnish retail
12 electric service, including any line from a distribution substation to an
13 electric consuming facility; but such term does not include a transmission
14 facility used for the bulk transfer of energy even if such energy is reduced
15 in voltage and used as station power.

16 (b) "Electric consuming facility" means any entity which utilizes
17 electric energy from a central station service.

18 (c) "Commission" means the state corporation commission of the
19 state of Kansas.

20 (d) "Retail electric supplier" means any person, firm, corporation,
21 municipality, association or cooperative corporation engaged in the
22 furnishing of retail electric service, *but does not include a renewable*
23 *energy supplier, as defined in section 1, and amendments thereto.*

24 (e) "Certified territory" means an electric service territory certified to
25 a retail electric supplier pursuant to this act.

26 (f) "Existing distribution line" means a distribution line which is in
27 existence on the effective date of this act, and which is being or has been
28 used as such.

29 (g) "Single certified service territory" means that service area in
30 which only one retail electric supplier has been granted a service
31 certificate by the commission.

32 (h) "Dual certified service territory" means that service area where
33 more than one retail electric supplier has been granted a service certificate
34 by the commission.

35 (i) "Station power" means electric energy used for operating
36 equipment necessary for the process of generating electricity at any
37 generating plant owned by a utility or a generating plant specified in
38 subsection (e) of K.S.A. 66-104, and amendments thereto, and placed in
39 use on or after January 1, 2002, whether such electrical energy is generated
40 at such generating plant or provided through the adjacent transformation
41 and transmission interconnect, but does not include electric energy used
42 for heating, lighting, air conditioning and office needs of the buildings at a
43 generating plant site.

1 Sec. 4. K.S.A. 66-1,170 and K.S.A. 2013 Supp. 66-104 are hereby
2 repealed.

3 Sec. 5. This act shall take effect and be in force from and after its
4 publication in the statute book.